

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 21 JUN 2005

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Applicant's or agent's file reference 101022-1 WO		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/SE2004/000472	International filing date (day/month/year) 26.03.2004	Priority date (day/month/year) 31.03.2003	
International Patent Classification (IPC) or both national classification and IPC C07D471/04			
Applicant			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
 - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 07.10.2004	Date of completion of this report 17.06.2005
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Boletti-Cremers, K Telephone No. +49 89 2399-8541



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/SE2004/000472

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-61 as originally filed

Claims, Numbers

1-17 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- ☐ the entire international application,
 - ☒ claims Nos. 13
because:
 - ☒ the said international application, or the said claims Nos. 13 relate to the following subject matter which does not require an international preliminary examination (specify):
see separate sheet
 - ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - ☐ no international search report has been established for the said claims Nos.
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- ☐ the written form has not been furnished or does not comply with the Standard.
 - ☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-17
	No: Claims	
Inventive step (IS)	Yes: Claims	1-17
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-12,14-17
	No: Claims	

2. Citations and explanations

see separate sheet

POINT III.

For the assessment of the presently worded claim 13, on the question whether it is industrially applicable, no unified criteria exist in the PCT.

The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognise as industrially applicable claims to the use of a compound in medical treatment, but will allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a new medical treatment.

POINT V.

The following documents , quoted in the I.S.R., have been considered as relevant for the examination of the present application . Their numbering will be adhered to for the rest of the procedure.

- (1) WO-A-01 58869.
- (2) WO-A-98 22457.

None of the above quoted documents discloses or suggests the claimed pharmacologically active compounds. Consequently , the claimed matter is novel and inventive.

1. Formal Point.

1.1 As stands , the claims are unclear in scope in that some of the definitions encompassed by the dependent claims 2-6 tend to define matters which are not part of main claim 1, to which claims 2-6 refer .

This objection affects especially most of the definitions of R¹ of claim 2,3,4,5 and which 6 do not fall within the open ended definition as mentioned in claim 1 of R¹ being a C₁₋₁₂ group. Even when addressing the description page 2 lines 2-6 , the definition of the C₁₋₁₂ group does not refer to most of the definitions of R¹ as mentioned in claim 2-6.

A similar objection also affects the definitions of X , which do not mention in claim 1 that they could be a heteroatom , whereas in dependent claim 3, heteroatom possibilities are mentioned.

Moreover, another similar objection addresses the Ar definitions of claim 1 which , in the

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dependent claims 4,5,6 , clearly refer to a heterocyclic possibility not encompassed by claim 1.

As a consequence to the above, the Applicant will be requested to submitted a clear version of the claims to come at the entry of the application into the regional EP-proceedings . Especially , claim 1 should be reformulated so as the enable coherent and supported dependencies.

It should also be pointed out that , since some of the definitions of R¹ to come in claim 1 might not have been searched , a supplementary search concerning them will possibly ordered in the regional proceedings.